

1 THE HONORABLE RICHARD A. JONES  
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7 A. UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 BLACK LIVES MATTER SEATTLE-  
11 KING COUNTY, ABIE EKENEZAR,  
12 SHARON SAKAMOTO, MURACO  
13 KYASHNA-TOCHA, ALEXANDER  
14 WOLDEAB, NATHALIE GRAHAM,  
15 AND ALEXANDRA CHEN,

16 Plaintiffs,

v.

CITY OF SEATTLE,

17 Defendant.

No. 2:20-cv-00887-RAJ

DECLARATION OF DAVID A. PEREZ IN  
SUPPORT OF PLAINTIFFS' MOTION FOR  
TEMPORARY RESTRAINING ORDER

I, DAVID A. PEREZ, being familiar with the facts set forth herein based on my personal knowledge, and being competent to testify, hereby declare under penalty of perjury as follows:

1. I am an attorney at Perkins Coie LLP and an attorney of record for Plaintiffs Black Lives Matter Seattle-King County, Abie Ekenezar, Sharon Sakamoto, Muraco Kyashna-Tocha, Alexander Woldeab, Nathalie Graham, and Alexandra Chen in the above-entitled action. I submit this declaration in support of Plaintiffs' Motion for Temporary Restraining Order.

2. On June 9, on behalf of Plaintiffs, I had a telephone conference with counsel for the City, Seattle City Attorney Peter Holmes, and informed them that Plaintiffs would be requesting a temporary restraining order. I explained what relief we would be seeking, and

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followed up with an e-mail describing our requested relief, too. The City did not indicate whether they oppose the relief sought in Plaintiffs' Temporary Restraining Order.

3. Attached hereto as **Exhibit 1** is a true and correct copy of an open letter from Mariko Lockhart, Director of the Seattle Office for Civil Rights, to “Beloved Community,” dated June 5, 2020.

4. Attached hereto as **Exhibit 2** is a true and correct copy of a June 7, 2020 letter to Seattle Mayor Jenny Durkan and Police Chief Carmen Best, signed by the following Washington elected officials: Seattle City Councilmembers Lorena González, Teresa Mosqueda, Tammy Morales, and Lisa Herbold; King County Councilmembers Girmay Zahilay, Joe McDermott, and Rod Demobowski; State Senators Rebecca Saldaña, Manka Dhingra, Bob Hasegawa, Joe Nguyen, David Frockt, and Jamie Pedersen; and State Representatives Jesse Johnson, Debra Entenman, Sharon Tomiko Santos, Javier Valdez, Mia Gregerson, Nicole Macri, Frank Chopp, Joe Fitzgibbon, Eileen Cody, Noel Frame, Zack Hudgins, Steve Bergquist, and Lauren Davis.

5. Attached hereto as **Exhibit 3** is a true and correct copy of a June 8, 2020 letter to Seattle Major Jenny Durkan and Chief of Police Carmen Best, signed by the following elected officials of color: Congresswoman Pramila Jayapal Seattle City Council President Lorena González, State Senators Joe Nguyen, Bob Hasegawa, Rebecca Saldaña, State Representative Cindy Ryu, King County Councilmember Girmay Zahilay, Teresa Mosqueda, Tammy Morales, Kshama Sawant.

DATED this 9th day of June 2020 at Seattle, Washington.

/s David A. Perez  
David A. Perez

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**Perkins Coie LLP**  
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Seattle, WA 98101-3099  
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# **Exhibit 1**

Dear OCR team - Below is my open letter to the Beloved Community that you all have been so helpful in making happen. My deep gratitude to all of you, Mariko

Beloved Community,

Like you, I have felt deep anguish, anger, and disappointment over recent events. Along with people throughout the country, I am grieving the murders of George Floyd, Ahmaud Arbery, and Breonna Taylor at the hands of law enforcement and vigilantes marauding as civilian law enforcement. Locally, we have lost Shaun Fuhr, Ryan Smith, Che Taylor, and Charleena Lyles, among too many others to police violence. This has been unbearable.

I truly thought that in the middle of a global pandemic and crashing economy - both of which are disproportionately devastating Black folks - things could get no worse. I was wrong. As I marched in protest to grieve and be in community with others, even while breaching public health precautions, I, along with other demonstrators, were met with tear gas and flash grenades thrown into the crowd by our City colleagues at SPD. What I experienced in person and have seen in video footage, has been terrifying. I have heard from other City leadership and employees that they fear for their personal safety, not because of other protestors but because of the police.

The Seattle Office for Civil Rights has worked for 16 years to advance racial justice, and it is devastating to see these efforts and those of City employees dedicated to racial justice come to this moment. At SOCR, we uphold a vision of a city of liberated people where communities historically impacted by racism, oppression, and colonization hold power and thrive. For this to be possible, we need to address centuries of systemic and structural racism. We cannot wait for action.

I agree with the decision to leave the federal consent decree in place and sustain this police accountability measure. We also need to reduce our investment in law enforcement in order to invest more in community infrastructure and solutions. Like so many cities across this country, we have spent decades continually expanding the role of police in our communities. We have relied on law enforcement to solve problems rather than fully investing in community-based models of safety, support, and prevention. We now know that this is a flawed strategy and we need to begin reallocating resources that center communities most impacted by structural racism.

Right now, community members are calling on us to do better, to acknowledge the harm caused by our institution, and to immediately begin building a government that values and prioritizes Black lives. I have heard these demands and pleas from Black, Indigenous, and People of Color (BIPOC), anti-racist organizers, the advisory commissions we serve, and my own staff. As the leader of this office, it is important to me that I lift up and amplify their voices.

I urge the City to consider other critical steps that will begin to address the structural oppression and racism that BIPOC experience and offer my own support in taking them:

1. Create a 'Budget for Black Lives.' Reprioritize the City budget to invest in community infrastructure within Black and Brown communities and decrease

funding from law enforcement, while creating more transparency and opportunities for public engagement to correct the opacity of the budget process that perpetuates structurally racist outcomes. Explore progressive taxation and funding streams.

SOCR is excited to be working with community members on a collaborative grant making process that will grant \$1 million to groups and organizations working to create alternatives to, and repair the harm caused by, the criminal legal system. We should expand on these kinds of investments to include:

- a. Community alternatives to the criminal legal system and community-based responses to crises
- b. Boosting housing and supportive services
- c. Strengthening health and social services
- d. Increasing digital equity efforts

2. Immediately halt the use of militaristic law enforcement against demonstrators and work to change the relationship between entities of the criminal legal system and protestors.
  - a. Cease the use of flash grenades, rubber bullets, and tear gas against community protestors and meet with community organizers to discuss safe de-escalation practices at demonstrations.
  - b. Stop the use of military forces against civilian demonstrations as it further escalates tensions
  - c. Release and do not prosecute demonstrators for exercising their right to protest
  - d. Hold Seattle police officers accountable for using excessive force
3. Decriminalize the City's efforts to support those who are houseless and ensure that moving people from encampments is only to appropriate and adequate shelter and housing. Forced encampment removals are inhumane and disproportionately harm BIPOC. To address these harms, shift funding away from the law enforcement component of the Navigation Team and invest more deeply in outreach, support services, and preventive strategies.

These are not meant as a comprehensive list of solutions to the problem of institutional racism, but rather a starting point to begin repairing the harms caused by centuries of white supremacist governing. I am deeply indebted to my staff, whose support and grace has contributed to the writing of this letter.

We need resilient community coalitions and actionable commitments to move away from the harmful practices and patterns that have been killing our Black communities. As we seek to rebuild our city coming out of the COVID-19 pandemic, such commitments can be put to the test. I recognize that as an institutional department committed to advancing racial equity, we can only achieve our goals with strong partnership and accountable relationships with anti-racist community organizers and leaders who share our same goals.

Yours in solidarity,

Mariko

# **Exhibit 2**

June 7, 2020

Mayor Durkan and Chief Best:

As elected officials who represent residents of Seattle and people coming from across the region to the city to call for justice for black lives, we call on you to take urgent and sustained action to de-escalate the police tactics used in daily protests. We are in the midst of a citywide and worldwide focus on black lives, racial justice, and the racism that is embedded in our systems, most clearly exhibited by excessive use of police force and patterns of racially biased policing. We are concerned that the response of the Seattle Police Department (SPD) is escalating the conflict in the streets of Seattle, particularly in Capitol Hill and in communities of color, with their inappropriate use of force.

We firmly request that you direct SPD to change their tactics.

Community voices, particularly black-led movements, are bringing forward lists of demands including a reimagined and accountable policing model. These demands require our focused attention in the weeks and months to come. As elected officials, we pledge to advance and support policies that 1) de-militarize the police, 2) further restrict use of excessive or deadly force by police, 3) increase accountability and transparency in police union contracts, 4) give subpoena and other investigative powers to independent oversight boards and 5) redirect police department funding to community-based alternatives.

The continued violence by the police will only polarize this necessary conversation in unproductive ways.

We are specifically asking you to end the damage that SPD has caused by overreaction to mostly peaceful protests. This harms the relationship between law enforcement and the community, harms our city, and harms law enforcement officers and their families in the form of emotional trauma. Physical violence is being perpetrated against members of our community by SPD. Emotional trauma and extraordinary racial aggression is being inflicted. Constitutional rights are at risk. Police tactics are exacerbating health risks amidst a devastating respiratory pandemic. The public health crisis of law enforcement anti-black violence is so extreme as to have eclipsed the previous disease that gripped our city.

It is well-documented that peaceful protests are being targeted by law enforcement and turned into violent conflict. No amount of secondary illegal activity has happened that warrants this response. We will have time in the future to discuss necessary reforms for future such conflicts, but for now, the violence must stop. Deploying police in riot gear to form a wall of officers

positioned against peaceful protestors is not conducive to de-escalation and healing; a moratorium on tear gas that is then replaced with pepper spray is not de-escalation.

We recognize that much of the police response has been driven by tensions, emotions, and fear running high on all sides. The only path forward that will heal our city necessitates first and foremost direction to SPD from the highest level to change their tactics immediately.

Sincerely,

Seattle City Councilmember Lorena Gonzalez  
Seattle City Councilmember Teresa Mosqueda  
Seattle City Councilmember Tammy Morales  
Seattle City Councilmember Lisa Herbold  
King County Councilmember Girmay Zahilay  
King County Councilmember Joe McDermott  
King County Councilmember Rod Dembowski  
State Senator Rebecca Saldaña  
State Senator Manka Dhingra  
State Senator Bob Hasegawa  
State Senator Joe Nguyen  
State Senator David Frockt  
State Senator Jamie Pedersen  
State Representative Jesse Johnson  
State Representative Debra Entenman  
State Representative Sharon Tomiko Santos  
State Representative Javier Valdez  
State Representative Mia Gregerson  
State Representative Nicole Macri  
State Representative Frank Chopp  
State Representative Joe Fitzgibbon  
State Representative Eileen Cody  
State Representative Noel Frame  
State Representative Zack Hudgins  
State Representative Steve Bergquist  
State Representative Lauren Davis

# **Exhibit 3**

June 8, 2020

The Honorable Jenny A. Durkan  
Mayor  
City of Seattle  
600 4<sup>th</sup> Avenue  
Seattle, WA 98104

Chief Carmen Best  
Chief of Police  
Seattle Police Department  
610 5<sup>th</sup> Avenue  
Seattle, WA 98104

Dear Mayor Durkan and Chief Best:

We write as elected officials of color who represent various parts of the City of Seattle and are deeply committed to honoring the lives of the many Black brothers, sisters and siblings who have been killed by police violence and are currently experiencing the triple threats of a global pandemic, pervasive anti-Blackness and police violence. We believe this is the moment to enact meaningful and transformative change in the very nature of policing at the federal, state and local levels. We also believe that law enforcement's response to people exercising their First Amendment right to freedom of speech and demonstration must shift right now. Specifically, we call on you to:

1. Immediately end law enforcement's violent response to ongoing demonstrations, by ending the use of the National Guard; stopping the use of all forms of chemical substances for crowd control; ending the use of rubber bullets and flash-bangs; and demilitarizing police on the streets who interact with protestors.
2. Completely rethink policing to create a model for public safety that truly upholds the safety of *all* communities and re-direct law enforcement spending and investing into essential services.
3. Immediately institute serious accountability and transparency measures into police contracts.

We have watched in horror as the National Guard has been called into our city and law enforcement has responded aggressively to people protesting police violence inflicted upon Black people in Seattle and across the country. The methods used by law enforcement, such as deploying tear gas and pepper spray, are not only dangerous as these tactics could increase the spread of COVID-19<sup>1</sup>, but they are also counter-productive. We are extremely disturbed that immediately after your declaring a 30-day halt to the use of tear gas by police, just last night we saw the use of tear gas by Seattle Police Department (SPD) officers. We are also appalled by video footage taken on May 31 showing an SPD officer using the same knee-on-neck tactic that killed George Floyd on a protestor, and reports that this same officer was seen kneeling on the

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<sup>1</sup> Heidi Groover, *Public health officials worry tear gas, pepper spray could contribute to coronavirus spread as Seattle protests continue*, SEATTLE TIMES (Jun. 5, 2020) <https://www.seattletimes.com/seattle-news/health/public-health-officials-worry-tear-gas-pepper-spray-could-contribute-to-coronavirus-spread-as-seattle-protests-continue/>.

necks of multiple people.<sup>2</sup> In under a week, people have filed over 15,000 complaints against the SPD.<sup>3</sup> It is not enough to commit to a “proportional” response to protestors. It is not “proportional” for the police to respond with rubber bullets or chemical agents when they are in full riot gear, many with rifles, while people in the streets have no protective equipment. The onus should always be on law enforcement to de-escalate, stand down and above all, protect the lives of the people they are sworn to protect and serve, including those that are protesting.

We see this moment as an opportunity to begin the modeling of a new and transformational relationship between law enforcement and community. The immediate fallback to the very same behavior that protestors are protesting—“domination” with militarized police, large numbers of troops and dangerous crowd dispersing techniques—is not only wrong, it is likely to escalate the protests when what we need is a complete de-escalation and standing down of the police. Instead, we call on the City to immediately send back the National Guard, reduce the police presence and allow protestors who have been largely peaceful to continue their protests, and immediately stop the use of military crowd dispersing tactics including rubber bullets, pepper spray and flash-bangs.

Simultaneously, we believe it is critical to immediately commit to building a transformative new model of policing. We are a community that has led the country on everything from a \$15 minimum wage to gun safety—now we must do the same in designing a model of public safety that protects everyone in our community, and does not have Black parents instructing their children at an early age to always avoid the police or worrying if they will come home if they have an interaction with the police. We believe it is time to do the same with a transformative new model of policing.

It is a horrifying reality that law enforcement in the South began as slave patrol and then moved to enforce Jim Crow laws.<sup>4</sup> That culture of violence is deeply embedded in the very notion of law enforcement as it has been created. Today, across America, police disproportionately use force against Black people and Black people are more likely to be arrested and sentenced.<sup>5</sup>

That is why our re-imagining of community safety must begin with shifting police funding to community-based alternatives and investing in essential services like healthcare, mental health, domestic violence, homelessness and housing, and other basic needs. No amount

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<sup>2</sup> Chris Riotta, *Seattle police officer caught kneeling on the necks of multiple George Floyd protesters*, THE INDEPENDENT (May 31, 2020) <https://www.independent.co.uk/news/world/americas/seattle-police-video-kneeling-neck-george-floyd-video-protests-violent-riots-a9541226.html>.

<sup>3</sup> Liz Brazile & Ashley Hiruko, *Why 'defund the police' has become the rallying cry at Seattle protests*, KUOW (Jun. 5, 2020) <https://www.kuow.org/stories/why-defund-the-police-has-become-the-rallying-cry-at-seattle-protests>.

<sup>4</sup> See, e.g., Chelsea Hansen, *Slave Patrols: An Early Form of American Policing*, National Law Enforcement Museum (Jul. 10, 2019) <https://lawenforcementmuseum.org/2019/07/10/slave-patrols-an-early-form-of-american-policing>; Gary Potter, *The History of Policing in the United States*, EKU School of Justice Studies, <https://plsonline.eku.edu/sites/plsonline.eku.edu/files/the-history-of-policing-in-us.pdf>.

<sup>5</sup> The Sentencing Project, *Report to the United Nations on Racial Disparities in the U.S. Criminal Justice System* (2018) <https://www.sentencingproject.org/publications/un-report-on-racial-disparities>.

of spending or changes to law enforcement can ever substitute for investment in these essential services; we need a public health response to public health problems. Budgets are moral documents. It is past time that we make significant investments in people and the systems they need to thrive.

We also ask that you immediately institute accountability and transparency measures, including through contract negotiations with the Seattle Police Officers Guild. We were heartened to see the call from the Martin Luther King County Labor Council to ensure that “contracts do not evade legitimate accountability.”<sup>6</sup> We agree. This is past due.

This week, the House Judiciary Committee in Congress will have a hearing on a sweeping police accountability bill that the New York Times has described as “the most aggressive intervention into policing by Congress in recent memory.”<sup>7</sup> It would make it easier for the federal government to successfully prosecute police misconduct cases, ban chokeholds, end racial and religious profiling and eliminate qualified immunity for law enforcement. It would also prevent the movement of dangerous officers from department to department, specify that lynching is a federal hate crime, and end no-knock warrants and the transfer of military weapons to local police departments. Finally, it would provide a new stream of federal funding to community-based organizations to reimagine how public safety could work in a truly equitable and just way to drive real policing reform from directly within communities. This is critical work being done at the Federal level. We must have similar transformative policies implemented at the state and local levels, and we must finally deliver on reforms that local advocates have championed for years, including changes to police contracts and implementing civilian oversight.

Thank you for your attention to these important matters.

Sincerely,



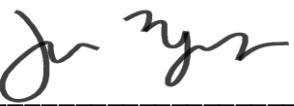
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PRAMILA JAYAPAL  
Member of Congress

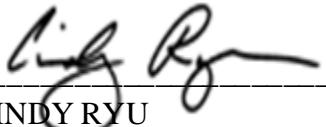


\_\_\_\_\_  
M. LORENA GONZÁLEZ  
Seattle City Council President

<sup>6</sup> MLK Labor, *Resolution Affirming Our Commitment to an Anti-Racist Union Movement* (Jun. 4, 2020) <http://mlklabor.org/resolutions/resolution-affirming-our-commitment-to-an-anti-racist-union-movement>.

<sup>7</sup> Nicholas Fandos, *Democrats to Propose Broad Bill to Target Police Misconduct and Racial Bias*, N.Y. TIMES (Jun. 6, 2020) <https://www.nytimes.com/2020/06/06/us/politics/democrats-police-misconduct-racial-bias.html>.

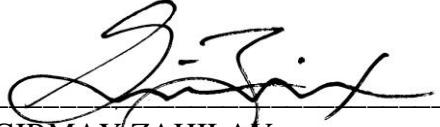
  
JOE NGUYEN  
State Senator

  
CINDY RYU  
State Representative

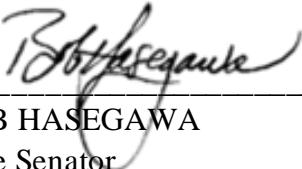
  
TERESA MOSQUEDA  
Seattle City Councilmember

  
KSHAMA SAWANT  
Seattle City Councilmember

  
REBECCA SALDAÑA  
State Senator

  
GIRMAY ZAHILAY  
King County Councilmember

  
TAMMY J. MORALES  
Seattle City Councilmember

  
BOB HASEGAWA  
State Senator